

Delete Chapter 184 ARTICLE I

Add Chapter 184 ARTICLE I as follows:

ARTICLE I Stone Walls

§ 184-1. Statement of findings; purpose.

It is hereby found that the destruction and damage of stone walls abutting Broadway and the stone walls on the following streets: Bridge Street, East and West Sunnyside Lane, Fargo Lane, Abbott House driveway, Main Street, North Eckar Street, South Cottenet Street, North and South Buckhout Streets, Dows Lane, West Clinton Avenue and Harriman Road (the “stone walls”), would diminish the historic character of the Village, reduce property values and adversely affect the health, safety and general welfare of the inhabitants of the Village. The stone walls constitute a scenic resource, and it is the purpose of this article to protect this resource.

§ 184-2. Permit/site plan approval required for any work to a stone wall.

- A. No person shall, without first obtaining site plan approval from the Planning Board and/or a permit from the Building Inspector as herein provided, either purposely or negligently, remove, destroy, tear down, or otherwise damage or modify or commit any other affirmative act which will lead to the eventual modification or repair of the stone walls or any part thereof. Permits or approvals issued for any other purpose by the Village shall not be valid for this purpose.
- B. Notwithstanding any other provision of this article, any person, corporation, partnership or similar entity whose plans require the repair or modification of such stone walls on the property shall first apply to the Building Inspector for a permit. The Building Inspector will review applications and determine whether the proposed action contemplated by the applicant is a repair or modification of a stone wall. If the Building Inspector determines that the applicant proposes a repair to a stone wall then the Building Inspector, in his sole discretion, shall determine whether or not such repair is necessary. The Building Inspector may grant or deny such application on such terms and conditions as it may prescribe and in accordance with Chapter 224, Article XIV, of the Village Zoning Code and subdivision regulations of the Village. If the Building Inspector determines that the proposed action to such stone walls is a modification of such stone wall then the Building Inspector shall refer the matter to the Planning Board who shall review the proposed modification of the stone wall under the provisions of site plan development plan approval and this Chapter.
- C. If and when the Planning Board approves the modification of such stone wall in the Village, the Building Inspector will then grant the applicant a permit in accordance with Planning Board Resolution permitting such action.

§ 184-3. Conditions for reviewing proposed removals or modifications of stone walls.

- A. Removal or modification of stone walls may be granted under the following circumstances:
 - (1) If the stone walls are weakened by age, storm, fire or other injury such that they pose a safety hazard to the public or the person or property owner or threaten to cause disruption of public services.
 - (2) If the stone walls substantially interfere with a permitted use of the property such that denial of a permit would cause undue hardship to the landowner as determined by the Planning Board under the site development plan process.
- B. The determination of the Building Inspector or Planning Board shall be final and shall depend upon considerations of general welfare and the hardship imposed on the property owner by denial of the permit, except that it shall be subject to such review as is authorized by § 184-4(H).
- C. In the event that the Building Inspector determines that the stone walls or a part thereof are hazardous to life or property, the Building Inspector shall have the right to waive all notices as required under this article and to grant immediate approval for the removal of said stone walls or section thereof. In the event that such approval is granted, the Building Inspector and/or Planning Board, subsequent to the destruction of said stone walls, shall have the authority to require complete compliance with all other provisions of this article as applicable thereto.

§ 184-4. Permit procedure; fee; bonds; appeals.

- A. Any person desiring a permit or approval hereunder shall apply to the Building Inspector and follow the procedures as set forth above.
- B. All applications for permits hereunder shall be made in writing and verified under oath upon forms prescribed and approved by the Board of Trustees. The fee for each application shall be \$100, payable upon submission of the application. This \$100 fee does not include any and all fees associated with a submission to the Planning Board for site development plan approval for a modification to a stone wall.
- C. The application shall be accompanied by a written statement and detailed plans, including a description of the location and condition of said stone wall and the reasons for repairing, removing, or modifying said stone wall. In addition, all property owners within 250 feet shall be notified by certified mail of the application by the applicant in accordance with the following procedures:
 - (1) The notices shall contain the name of each record and beneficial owner of the property for which the permit is sought.

- (2) The applicant shall submit an affidavit with his application stating that written notice of the application has been given by certified mail to all affected property owners with respect to the property for which a permit is sought.
 - (3) The Building Inspector and/or the Planning Board may not consider any application for a permit or approval prior to the satisfaction of the notice requirements of this section.
- D. The Building Inspector and/or Planning Board may require additional information, such as the proposed replacement of design of the street frontage area where the stone walls are to be repaired or modified (e.g., proposals for restoration of the stone walls or replacement of the stone walls with trees, gates or any other suitable materials).
- E. The Building Inspector and/or Planning Board shall, prior to the issuance of a permit by the Building Inspector or an approval by the Planning Board, require that a person or firm furnish the Village with a performance bond as approved by the Village Attorney in an amount sufficient to cover 90% of the greater of (i) the cost of replacement or restoration work to be completed in accordance with the plans accompanying all applications or (ii) the costs in accordance with plans as required by the Building Inspector and/or the Planning Board. The remaining 10% of the cost of restoration and replanting (e.g., replant any and all bushes and or trees removed as a result of the modification of the stone wall) shall be in cash, deposited in a special stone wall preservation escrow account. The total amount of the bond and cash deposit shall reflect all restoration and protection costs and shall be in accordance with each set of individual circumstances. Upon the completion of all replacement or restoration work to the satisfaction of the Building Inspector, the performance bond shall be canceled and replaced with a maintenance bond to be approved by the Village Attorney and to run for a term to be fixed by the Building Inspector, but in no case for a period longer than two years. The ten-percent cash in escrow shall remain on deposit with the Village until the maintenance bond is canceled regardless of whether or not the maintenance bond is an amount less than the 10% cash.
- F. No stone walls shall be destroyed pursuant to a validly issued permit for a period of 15 days from the date of the issuance of said permit.
- G. All decisions of the Building Inspector and/or the Planning Board approving applications pursuant to this article shall be sent by the applicant by certified mail, return receipt requested, within seven days to all property owners within two-hundred-fifty-feet of the area in question and to the Environmental Conservation Board.
- H. Any person, firm, organization or corporation aggrieved, affected or interested in the determination or decision of the Building Inspector shall have the right, within 10 days from receipt of the decision, to appeal to the Board of Trustees, who shall

review the decision. Any decision or determination of the Building Inspector which is appealed to the Board of Trustees shall be automatically stayed pending review by the Board of Trustees. Any person, firm, organization or corporation aggrieved, affected or interested in the determination or decision of the Planning Board shall have the same rights as it would under site development plan approval.

- I. The Building Inspector and the Planning Board reserve the right to refuse permits for stone wall repair or modification if they feel that the best interests of the public are not served by the proposed development. The Building Inspector may further revoke any permit if the work is not proceeding according to the permit and in an orderly and diligent manner.
- J. Any permit granted by the Building Inspector under this Chapter is valid for six months.

§ 184-5. Restoration, maintenance, and performance requirements.

- A. All persons who remove or cause to be removed stone walls, with or without a permit, shall restore the area by backfilling all holes and by creating an acceptable grade and covering, subject to approval of the Building Inspector. In addition all persons removing or causing a stone wall to be removed without a permit shall replace the stone wall to the sole satisfaction of the Building Inspector before applying for a permit to remove said stone wall.
- B. The Building Inspector shall require maintenance as necessary or desirable for the upkeep of any stone walls, trees, plants, shrubbery or other structures emplaced to replace the modified stone wall. Should the permit holder fail to comply with the permit or the site plan approval pursuant to demand from the Building Inspector or the Planning Board within the required period of time, the Board of Trustees shall have the right to declare the maintenance or performance bond in default and apply the escrow cash deposit and the proceeds of the bond to perform all required replacement or restoration work. By accepting a permit, the holder thereby agrees to this procedure and grants unconditional access to the land for such restoration purposes. If any work is done by the Village, its agents, or assigns, the applicant automatically agrees to indemnify and hold harmless the Village, its agents, and assigns for any and all claims.

§ 184-6. Penalties for offenses.

- A. Any person, firm or corporation violating any of the provisions of this article shall commit an offense, the fine for which shall not exceed \$1,000.
- B. Civil penalty. In addition thereto, any persons, firm or corporation violating any provision of this article shall be subject to a civil penalty enforceable and collectible by the Village in the amount of \$200 for each and every day that the violation continues. In addition, the violator will be required to restore the stone walls or

furnish an acceptable substitute to maintain the scenic appearance where the stone wall was removed to the sole satisfaction of the Building Inspector.

§ 184-7. Enforcement officer designated.

The Building Inspector of the Village of Irvington shall enforce this article, except where such enforcement is vested with the Department of Public Works by the laws of the State of New York.

§ 184-8. Village property.

All stone walls on Village Property are exempt from the provisions of this law.